

# **CITY COUNCIL AGENDA**

**APRIL 27, 2004**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://www.sanjoseca.gov/clerk/agenda.htm)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
**9:36a.m.** - Closed Session, Room 600, City Hall  
**Absent Council Members: Dando, Gregory. (Excused)**  
  
**1:33 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Dando, Gregory. (Excused)**
- **Invocation (District 4)**  
The Filipino-American Veterans Stringed Instrumental Group performed the “Fil-Am Vets March”.
- **Pledge of Allegiance**  
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day, and the Amended Agenda were approved.

## **1 CEREMONIAL ITEMS**

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- 1.1** Presentation of commendations to Altera Corporation, David J Powers and Associates, MCON Construction, The Steinberg Group, EnviroSystems, LGC Wireless, and the City of San José’s West Valley Branch Library in recognition for being “Green Businesses”. (Environmental Services)
- Mayor Gonzales was joined at the podium by Council Member LeZotte to present commendations to Altera Corporation, David J. Powers and Associates, MCON Construction, The Steinburg Group, EnviroSystems, LGC Wireless, and the City of San José’s West Valley Branch Library in recognition for being “Green Businesses”. Mayor Gonzales invited Director of Environmental Services Carl Mosher to the podium. Council Member LeZotte remarked while saving money, these businesses have adopted sound environmental practices in energy efficiency, water conservation, solid and hazardous waste reduction, and pollution prevention. Council Member LeZotte invited the representatives of each business to the podium, and Mayor Gonzales presented the plaques in recognition of their efforts. Council Member LeZotte acknowledged the contributions of the Fire Department’s Hazardous Materials Division and the Environmental Services Department who have assisted in the success of the “Green Business” program.**

## **2 CONSENT CALENDAR**

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### **2.1 Approval of Minutes.**

**There were none.**

### **2.2 Final adoption of ordinances.**

**There were none.**

### **2.3 Approval of various fiscal actions for Redevelopment Agency Capital Projects.**

#### **Recommendation:**

(a) Adoption of appropriation ordinance and funding sources resolution amendments in the services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) in the amount of \$397,062:

- (1) Increasing the appropriation to the Department of Public Works for the Thirteenth Street Streetscape Project (PSM 295#2) by \$337,062.
- (2) Establish an appropriation to the Department of Transportation for the Delmas Park Traffic Calming Project (PSM 355) in the amount of \$50,000.
- (3) Establish an appropriation to the Department of Public Works for the Reed Street Park Project (PSM 358) in the amount of \$10,000.
- (4) Increase the estimate for Earned Revenue by \$397,062.

**Ordinance No. 27127 adopted.**

**Resolution No. 72069 adopted.**

(b) Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency Funds on certain public improvements in connection with the Delmas Park Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 10, 2004, and the Reed Street Park Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 23, 2004.

CEQA: Not a Project. Council District 3. SNI: Market/Almaden, Delamas Park, and 13<sup>th</sup> Street. (City Manager's Office)

**Resolution No. 72070 adopted.**

### **2.4 Approval of the City Manager's travel.**

**Recommendation:** Approval of City Manager Del D. Borgsdorf's travel to Portland, Oregon, from April 28 – May 1, 2004, to participate in the National League of Cities' Sixth Biennial "Your City's Families Conference." CEQA: Not a Project. (City Manager's Office)

**Approved.**

## 2 CONSENT CALENDAR

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### 2.5 Approval of the sale of a public utility easement over City-owned lands.

**Recommendation:** Adoption of a resolution authorizing the sale of a public utility easement over City-owned open space land along Guadalupe Creek for the installation and extension of a waterline to the existing Guadalupe Mines Road waterline; and delegating authority to the Director of the General Services Department to execute all documents necessary to complete transfer of the easement. CEQA: Exempt, PP04-04-120. Council District 10. (General Services)

**Resolution No. 72071 adopted.**

### 2.6 Approval to award a contract for power washing services for City-owned parking facilities.

**Recommendation:**

- (a) Approval of award of an annual contract for power washing services for the Department of Transportation for City-owned Parking Facilities with Pro Sweep (San José, CA), for a total amount not to exceed \$110,000, and authorize the Director of General Services to execute the service order; and
- (b) Authorization for the Director to execute one additional one-year option to renew without further Council action other than the appropriation of funds.

CEQA: PP03-03-080. (General Services)

**Dropped.**

### 2.7 Approval of an agreement to administer Community Action and Pride Grant funds.

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute a new agreement between the City of San José and Community Foundation Silicon Valley (CFSV) for the administration of Community Action and Pride (CAP) Grant funds.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

**Resolution No. 72072 adopted.**

### 2.8 Approval of an agreement for animal food for the Animal Care Center.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a two-year agreement with Hill's Pet Food Company to receive animal food at the cost of shipping in exchange for exclusive promotional opportunities to Hill's Pet Food at the City of San José's Animal Care Center. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

**Resolution No. 72073 adopted.**

## 2 CONSENT CALENDAR

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### 2.9 Approval of various actions related to the annexation of Evergreen No. 189.

**Recommendation:** Adoption of a resolution initiating proceedings and setting May 11, 2004 at 1:30 p.m. as the date for Council consideration on the reorganization of territory designated as Evergreen No. 189, which involves the annexation to the City of San José of 2.11 acres of land, located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue and the detachment of the same from Santa Clara County Central Fire Protection, and Area No. 1 (Library Services) County Service. CEQA: Mitigated Negative Declaration, PDC02-047. Council District 8. (Planning, Building and Code Enforcement)

**Resolution No. 72074 adopted.**

### 2.10 Approval to acquire an easement as part of the Almaden Community Center and Branch Library Project.

**Recommendation:** Approval of an agreement with San José Unified School District to convey to the City of San José an emergency vehicle access easement on a portion of the Simonds Elementary School site at 6515 Grapevine Way, together with a temporary construction easement through May 31, 2006 on another portion of the site, and authorization for the Director of Public Works to execute all documents necessary to complete the transaction. CEQA: Exempt, PP03-11-367. Council District 10. (Public Works)

**Approved.**

### 2.11 Approval to convey an easement for an interconnection of water systems near the airport.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement to convey an easement on and under 357 square feet of City of San José-owned property at the intersection of Brokaw Road and Martin Avenue to the City of Santa Clara to allow for placement of a pipeline to connect water systems owned by the San José Water Company and the City of Santa Clara, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transfer. CEQA: Resolution Nos. 67380 and 71451, PP04-03-103. (Public Works)

**Resolution No. 72075 adopted.**

### 2.12 Approval of actions related to the Rule 20A and Rule 20B Underground Utility Program.

**Recommendation:** Approval of the report for the proposed 2003/04-2008/09 Workplan for the Rule 20A and Rule 20B(In-Lieu Fee) Underground Utility Program and the proposed Rule 20B(In-Lieu Fee) Undergrounding Masterplan. CEQA: Not a Project. (Public Works)

**Report Accepted.**

## 2 CONSENT CALENDAR

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### 2.13 Review of the Annual Report on In-Lieu Fees.

**Recommendation:** Review of the Annual Report regarding in lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project. (Public Works)

**Report Accepted.**

### 2.14 Approval of an agreement for the Bascom Avenue Median Island Landscaping Project.

**Recommendation:**

- (a) Approval of a first amendment to the agreement with the County of Santa Clara for the Bascom Avenue Median Island Landscaping project, designating the County as the lead agency for project construction; and

**Approved.**

- (b) Adoption of the following appropriation ordinance and funding Sources resolution amendments in the Building and Structure Construction Tax Fund:

- (1) Reduce the appropriation to the Department of Transportation for the Bascom Avenue MIL: Parkmoor to San Carlos appropriation by \$601,000;
- (2) Increase the Ending Fund Balance by \$7,000; and
- (3) Reduce the estimate for Earned Revenue by \$594,000.

CEQA: Resolution No. 65459, PP03-06-206. Council District 6. SNI: Burbank/Del Monte. (Transportation/City Manager's Office)

**Ordinance No. 27128 adopted.**

**Resolution No. 72076 adopted.**

### 2.15 Approval of an ordinance regarding offstreet parking compliance at parking facilities owned or leased by the City.

**Recommendation:** Approval of an ordinance amending Section 11.08.070 of Chapter 11.08 and Chapter 11.44 of Title 11 of the San José Municipal Code authorizing the Director of Transportation to regulate off street parking facilities owned or leased by the City. CEQA: Exempt, File No. PP01-01-008. (Transportation)

**Ordinance No. 27129 passed for publication.**

## **2 CONSENT CALENDAR**

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### **2.16 Approval to award a contract for the White Road Widening Project.**

**Recommendation:**

- (a) Approval of an agreement in the amount of \$40,500 with the Timothy Chen Revocable Trust for the purchase of a portion of land located at 380 North White Road, together with an immediate right of entry thereon and a three-month right of entry on the adjoining portion of property, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Negative Declaration, PP03-11-355. Council District 5. (Public Works)

**Approved.**

- (b) Report on bids and award of contract for the White Road Widening Project - Mabury Road to McKee Road to the low bidder, Redgwick Construction Company, Inc., in the amount of \$406,635, and approval of a contingency in the amount of \$21,000. CEQA: Negative Declaration, PP 03-11-335. Council District 5. (Public Works/Transportation)

**Approved.**

### **2.17 Approval of Vice Mayor Pat Dando's travel.**

**Recommendation:** Approval of Vice Mayor Pat Dando's travel to Washington, D.C., April 24-27, 2004, for the Silicon Valley Chamber of Commerce annual legislative advocacy visit to Washington, D.C. Funding: Silicon Valley Chamber of Commerce. (Dando)

(Rules Committee referral 4/21/04)

**Approved.**

### **2.18 Approval of Mayor Gonzales' travel.**

**Recommendation:** Approval of Mayor Gonzales' travel to Washington, D.C., April 19-21, 2004, to accept the "America's Most Livable Communities" Award on behalf of the City. (Mayor)

(Rules Committee referral 4/21/04)

**Approved.**

### **2.19 Approval of an agreement with the International Union of Operating Engineers (OE#3).**

**Recommendation:** Adoption of a resolution approving the terms of a Memorandum of Agreement between the City of San José and the International Union of Operating Engineers, Local #3, authorizing the City Manager to execute the agreement for the term of April 17, 2004 through April 14, 2006. CEQA: Not a Project. (City Manager's Office)

(Rules Committee referral 4/21/04)

**Deferred to 5/4/04.**



## 2 CONSENT CALENDAR

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### 2.20 Approval of actions for developing Community Safety Protocols.

**Recommendation:** Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund in the amount of \$46,882, for developing Community Safety Protocols. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/ City Manager's Office)  
(Deferred from 4/20/04 – Item 2.7)

**Deferred to 5/4/04.**

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee - Meeting of April 14, 2004

**Vice Mayor Dando, Chair**

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review April 27, 2004 Draft Agenda

**The Committee recommended approval of the April 27, 2004 City Council agenda.**

(2) Add New Items to April 20, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

**The Committee recommended two additions to the April 20, 2004 City Council agenda.**

(3) List of Reports Outstanding

**The Committee noted and filed the City Manager's report stating there are three Staff reports outstanding for the April 20, 2004 Council agenda.**

(c) Legislative Update

(1) State

**There was no report.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee - Meeting of April 14, 2004 (Cont'd.)

Vice Mayor Dando, Chair

- (2) Federal
  - (a) Federal Lobbyist Report  
**The Committee noted and filed the Federal Lobbyist Report for January-March 2004.**
- (d) Meeting Schedules  
**There were none.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointment to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Written report on request for deferral for "Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal"  
**The Committee accepted Deputy City Manager Ed Shikada's report on the status of discussions with the Evergreen Specific Plan property owners regarding their request for renewal of tax exemptions that expired on January 1, 2003.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting was adjourned at 2:15 p.m.**

#### Report of the Rules Committee (Partial) - Meeting of April 21, 2004

Vice Mayor Dando, Chair

- (c) Legislative Update
  - (1) State
    - (a) AB 2741 (Salinas, Wolk) – Metropolitan Transportation Commission: governing board

**The Rules/Partial Rules Committee Report and the Actions of April 14, 2004, and April 21, 2004, were accepted.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.3 Report of the Making Government Work Better Committee – April 14, 2004

##### Council Member Campos, Chair

- (a) Public Works Real Estate Division Audit  
**Deferred to June 2004.**
- (b) Concentrated Code Enforcement Audit  
**The Committee accepted the Staff report with the request to bring back to the Committee in September, a follow up report and that it be added to the Work Plan.**
- (c) Airport Concessions Contracts Audit  
**The Committee accepted the Staff report with the request to bring back to the Committee in June, a follow up report.**
- (d) Report on CSA Performance Measurements  
**The Committee accepted the Staff report.**
- (e) Follow-up Report on the Effectiveness of Current City and RDA Community Outreach  
**Deferred to May 2004.**
- (f) Special Event Permitting  
**The Committee accepted the Staff report.**
- (g) Neighborhood Development Center regarding CAP Grant Update  
**The Committee accepted the Staff report.**
- (h) Call Center Information and Referral Services  
**Deferred to 2004-2005 Work Plan.**
- (i) School Crossing Guard Audit  
**Deferred to May 2004.**
- (j) Single Audit Report  
**Deferred from February.**
- (k) Management Letter (Deferred from February)  
**The Committee accepted the Staff report.**
- (l) Semi-annual Audit Recommendations  
**See Item 3.7 for Council Action Taken.**  
**The Committee accepted the Staff report with the direction to cross reference Appendix B, HIT Report on the April 27, 2004 City Council agenda.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.3 Report of the Making Government Work Better Committee – April 14, 2004 Council Member Campos, Chair (Cont'd.)

- (m) Oral petitions

**There were none.**

- (n) Adjournment

**The meeting was adjourned at 5:00 p.m.**

**The Making Government Work Better Committee Report, and the Actions of April 14, 2004, were accepted.**

#### 3.4 Approval to amend Chapter 4.76 of the San José Municipal Code (Business Tax).

**Recommendation:** Direction to the City Attorney to bring for approval an ordinance amending Chapter 4.76 of the San José Municipal Code implementing revisions to the Business Tax related to increasing exemptions, establishing a grace period for new businesses, increasing the amount of Business Tax the Director of Finance may compromise, and establishing a Director of Finance authority to compromise Business Tax penalties and interest. CEQA: Not a Project. (Finance)

**Approved.**

#### 3.5 Approval of various actions related to O'Connor Hospital.

**Recommendation:** Approval of various actions, on behalf of Daughters of Charity Health System, regarding the O'Connor Hospital, located at 2105 Forest Avenue, San José, CA 95128:

- (a) Hold a TEFRA Hearing for the issuance of \$550,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Statewide Community Development Authority ("CSCDA"); and

**Approved.**

- (b) Adoption of a resolution approving the issuance of Tax-Exempt Fixed Rate Revenue Bonds, Series 2004 by the California Statewide Community Development Authority in an aggregate principal amount not to exceed \$550,000,000 to be used to:

- (1) Refund existing \$450,000,000 California Statewide Communities Development Authority Series 2001 Fixed Rate Revenue Bonds (the "2001 Bonds");
- (2) Equip certain hospitals and related facilities; and
- (3) Pay certain expenses incurred in connection with the issuance of the Bonds.

CEQA: Not a Project. Council District 6. (Finance)

**Resolution No. 72077 adopted.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.6 Approval of actions related to an Integrated Utility Billing, Customer Service and Performance Management System (CUSP).**

**Recommendation:**

- (a) Adoption of resolution authorizing the City Manager to enter into exclusive negotiations for sixty days for the purchase, installation, and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint/PeopleSoft, with the option to commence negotiations with Indus in the event business terms are not reached with BearingPoint/PeopleSoft.
- (b) Direction for staff to proceed with the necessary actions to expand the City's commercial paper program including the preparation of the necessary amendments to the Trust Indenture, certain financing documents, and preparation of a new Offering Memorandum for the City of San José Financing Authority Tax-Exempt Lease Revenue Commercial Paper Notes (the "CP Notes") for City Council and City of San José Financing Authority Board approval by August 2004.
- (c) Direction for staff to return to Council by August 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations.

CEQA: Not a Project. (Finance/Environmental Services/Information Technology)

**Deferred to 5/4/04.**

#### **3.7 Acceptance of the Semi-Annual Audit Recommendations.**

**Recommendation:** Acceptance of the Semi-Annual Audit Recommendations, Appendix B: An Audit of the Fire Department – Hazardous Materials Storage Permit Fees. (City Auditor)

[Making Government Work Better Committee referral 4/14/04 - Item 3.3(1)]

**Accepted.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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#### **4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair**

**No Report.**

#### **4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair**

**No Report.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.3 Public Hearing and approval of the Nevills-Campisi House as a historic landmark.**

**Recommendation:** PUBLIC HEARING and adoption of a resolution designating the Nevills-Campisi House, located on a 0.125 gross acre site at the east side of South 6<sup>th</sup> Street, approximately 150 feet northerly of East San Fernando Street (84 S. Sixth Street), as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature, HL03-149. CEQA: Exempt, HL03-149. Council District 3. SNI: 13<sup>th</sup> Street. (Planning, Building & Code Enforcement)

**The Public Hearing was held.**

**Resolution No. 72078 adopted.**

### **4.4 Approval of various actions related to Housing Program Grants.**

**Recommendation:**

- (a) Adoption of a resolution authorizing the Director of Housing to accept housing program grants from HCD and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following grants:
- (1) A \$1,000,000 CalHome Program grant to fund the rehabilitation of homes owned by low-income residents;
  - (2) A \$500,000 Exterior Accessibility Grants for Renters (EAGR) program grant to fund exterior accessibility improvements for lower-income tenants living in multi-unit or single-family rental housing units; and
  - (3) A \$1,500,000 Local Housing Trust Fund Program grant for the San José Housing Trust Fund (SHTF) to fund loans for the construction or rehabilitation of rental housing developments affordable to low-income households.

**Resolution No. 72079 adopted.**

- (b) Approval of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:
- (1) Increasing the CalHome Program appropriation by \$1,000,000;
  - (2) Establishing a new CalHome (EAGR) appropriation in the amount of \$500,000; and
  - (3) Increasing the estimate for Grant Revenue in the amount of \$1,500,000.

**Ordinance No. 27130 adopted.**

**Resolution No. 72080 adopted.**

- (c) Approval of the following appropriation ordinance and funding sources resolution amendments in the Housing Trust Fund:
- (1) Increasing the estimate for Grant Revenue Proposition 46 in the amount of \$1,500,000; and
  - (2) Establishing a Proposition 46 Expenditure appropriation in the amount of \$1,500,000.

CEQA: Not a Project. (Housing/City Manager's Office)

**Ordinance No. 27131 adopted.**

**Resolution No. 72081 adopted.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.5 Presentation on the status of the New Civic Center.**

**Recommendation:** Presentation on the status of the New Civic Center. (City Manager's Office)

**Staff Presentation only. No Council Action Required.**

### **4.6 Approval of actions for the Industrial Use Designation (Getting Families Back to Work Initiative).**

**Recommendation:** Approval of an ordinance amending Section 4.46.050 of Chapter 4.46 of Title 4 and Section 4.47.040 of Chapter 4.47 of the San José Municipal Code to:

- (a) Clarify the industrial use designation for buildings or structures subject to collection of Building and Structure Construction Taxes;
- (b) Add certain industrial uses to the expanded list for the purpose of collecting Building and Structure Construction Taxes and establish a sunset provision for the expanded list of industrial uses;
- (c) Clarify the procedures to collect taxes for building permits that are issued separately for building shell and the first tenant improvements.

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

(Deferred from 3/30/04 – Item 4.5 and 4/6/04 – Item 4.7)

**Ordinance No. 27132 passed for publication.**

**Staff requested to track how the amendments to the Building and Structures Tax Ordinance affect the development review process, and to report back each year during the budget process.**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.1 Report of the All Children Achieve Committee – April 8, 2004 Council Member Yeager, Chair**

- (a) Civic Center Childcare Update
- (b) Update on Schools/City Collaborative Joint Use Agreements – Discussion on how we can better work with schools
- (c) Discussion on Gang Prevention and Intervention Programs
- (d) San José After School Implementation Update and Discussion of Priorities for Youth Programs
- (e) Oral petitions
- (f) Adjournment

(Deferred from 4/20/04 – Item 5.1)

**Deferred to 5/4/04.**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.2 Approval to award a contract for the Almaden Community Center and Branch Library.**

**Recommendation:** Report on bids and take appropriate action based on the evaluation of bids for the Almaden Community Center and Branch Library Project, and approval of a ten percent contingency. CEQA: Mitigated Negative Declaration, PP02-10-309. Council District 10. (Public Works/Library/Parks, Recreation & Neighborhood Services)

**Item 5.2 was dropped. Action was taken on 4/20/04.**

## **6 TRANSPORTATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair No Report.**

### **6.2 Approval of various actions related to the Oakland Road Widening Project.**

**Recommendation:** Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of:
  - (1) Fee title to a portion of property located at 1212 Oakland Road, owned by R.C.S. Management and Investment Corporation, a California corporation;
  - (2) Six-month temporary construction easement on an adjoining portion of the property; and
  - (3) Two sound wall easements at the northerly and southerly portions of the property.
- (b) Finding that:
  - (1) The property to be taken is necessary for the completion of the Oakland Road street widening project;
  - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
  - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value,
  - (4) City staff made an offer to the owners for the full appraised amount; and
  - (5) The proposed taking and use are authorized by law;
- (c) Directing the City Attorney to file an eminent domain action to acquire these property interests.

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

**Resolution No. 72082 adopted.**



## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## **8 AVIATION SERVICES**

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### **8.1 Approval to award a contract for facility maintenance, repair, and improvements at the Airport.**

**Recommendation:** Report on bids and award of contract for the Norman Y. Mineta San José International Airport - General Engineering Contract 03-04 to the low bidder, O'Grady Paving, in the amount of \$1,300,000. CEQA: Resolution Nos. 67380, and 71454, PP 04-01-010. (Public Works/Airport)

**Approved.**

## **9 PUBLIC SAFETY SERVICES**

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### **9.1 Approval of actions related to the Independent Police Auditor's review of officer-involved shootings.**

**Recommendation:** Approval of specified policies and procedures related to the review of officer-involved shootings resulting in injury or death to a person and fatal incidents involving San José police officers. CEQA: Not a Project (Independent Police Auditor/Police)

**Approved.**

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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**The Redevelopment Agency Board convened at 2:50 p.m. to consider Items 10.1 and 10.2 in a Joint Session.**

### **10.1 Presentation on the development and implementation of One-Voice Service Delivery Pilot Projects.**

**Recommendation:** Presentation on the development and implementation of One-Voice Service Delivery Pilot Projects. (City Manager's Office/Redevelopment Agency)  
(Deferred from 4/13/04 – Item 10.1)

**Staff Presentation only. No Council Action Required.**

## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 10.2 Public Hearing and approval of various actions related to the development of the Vintage Tower Apartments.

**Recommendation:** PUBLIC HEARING and adoption of resolutions:

- (a) Approving the transfer of Redevelopment Agency-owned property, located at 235 East Santa Clara Street (Property), pursuant to a Cooperation Agreement between the City and the Agency to the City.
- (b) Approving the sale from the City to the First United Methodist Church Tower Properties, L. P., (FUMCTP), for \$5,200,000 for the residential tower and an easement for 104 parking spaces in the adjoining parking garage, and to First United Methodist Church Car Barn, (FUMCCB), a California nonprofit corporation, for \$50,000 for the garage encumbered by the easement (Sponsors).
- (c) Approving a loan to First United Methodist Church Tower Properties, L.P., for the acquisition/rehabilitation of the residential building of up to \$2,225,000.
- (d) Accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the Property will provide housing for very low- and low-income persons and is consistent with the Implementation Plans for the San José Merged Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).
- (e) Approving the DDA among the City of San José, the Redevelopment Agency, and the Sponsors for the acquisition and rehabilitation of the Vintage Tower Apartments, a 59-unit mid-rise apartment building located at 235 East Santa Clara Street.
- (f) Authorizing the City Manager and the Executive Director to negotiate and execute amendments to the DDA as may be reasonably required by the Developer's lender, and as necessary to conclude this transaction consistent with the authority granted herein.
- (g) Authorizing the City Manager and the Redevelopment Agency Executive Director to execute such documents as necessary to convey the Property to the Sponsor once the conditions of conveyance have been met.

CEQA: Exempt, PP03-03-090. Council District 3. (City Manager's Office/Redevelopment Agency)

**The Public Hearing was Held.**

**Resolution No. 72083 adopted.**

**Redevelopment Agency Resolution No. 5491 adopted.**

**Staffs directed to continue to work with Jim Crawford, First United Methodist Church and Developer, on outstanding issues as the project moves forward, including due diligence of related work around Vintage Towers.**

**The Redevelopment Agency Board portion of the Meeting was adjourned at 4:19 p.m.**

- **Closed Session Report**  
**No Report.**

- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9556	Willowbrae Avenue	6	DKB Homes	21 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:  
**None.**

- **Open Forum**  
(1) **Mark Trout spoke of societal issues.**

- **Adjournment**  
**The Council of the City of San José was adjourned in memory of Luis Miguel Jiminez, student at Fair Middle School.**

**The Council of the City of San José was adjourned at 4:22 p.m.**

## **7 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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**The Council of the City of San José convened at 4:23 p.m. to hear Items 7.1, 7.2, 7.3, and 7.4 in a Joint Session with the Redevelopment Agency.**

### **7.1 Approval of actions related to construction of traffic signals at the intersections of Santa Clara Street and 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Streets.**

#### **Recommendations:**

- (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law for the funding of Public Improvements.

**Resolution No. 72084 adopted.**

- (b) Approval by the City Council and Redevelopment Agency Board of a Cooperation Agreement providing for City funding and Agency oversight of construction of a traffic signal project at the intersections of Santa Clara Street and 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Streets.

**Approved.**

- (c) Adoption of a resolution by the Agency Board:

- (1) Approving the addition of \$316,000 in revenue for funds transferred from the City to fund the construction of traffic signals at the intersections of Santa Clara Street and 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Streets, to the FY 2003-2004 Adopted Budget; and,

- (2) Approving the addition of \$316,000 to the Adopted FY 3003-2004 Capital Budget, Civic Plaza Streetscape Project line in the Civic Plaza Redevelopment Area; and,

- (3) Amending the FY 2003-2004 Agency appropriations resolution.

CEQA Resolution No. 68905; PP04-03-071 **[CIVIC PLAZA]**

**Redevelopment Agency Board Resolution Number adopted.**

### **7.2 Approval of Actions related to the Blackford Community Center Project.**

#### **Recommendations:**

- (a) Approval by the City Council and Agency Board of a Cooperation Agreement providing for the City's contribution of \$823,000 and the Agency's contribution of \$1,029,000 towards the City's acquisition of 3707 Williams Road (APN: 299-32-074); for the Blackford Community Center Project.

- (b) Approval by the City Council of a Purchase and Sale Agreement with OCIP, LLC, in the amount of \$1,850,000 plus related closing costs, for the acquisition of 3707 Williams Road.

*(Item continued on the next page)*

## **7 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **7.2 Approval of Actions related to the Blackford Community Center Project (Cont'd.)**

- (c) Adoption by the City Council of Appropriation Ordinance amendments in the Subdivision Park Trust Fund: decreasing the Reserve for Blackford High School Swimming Pool by \$83,000; and establishing the Blackford Community Center Project for \$83,000 to the Department of Parks, Recreation and Neighborhood Services.
- (d) Amendment by the Redevelopment Agency Board of the Agency's FY 2003-2004 Appropriation Resolution.
- (e) Approval by the City Council and the Redevelopment Agency Board of certain findings related to the Agency's payment for property that will be publicly owned.

CEQA: Exempt, PP04-03-090. **[BLACKFORD SNI]**

**Item 7.2 deferred to 5/4/04.**

### **7.3 Award of a construction contract to the Edenvale Roundtable Association (ERCA) Neighborhood Center Project to the low bidder.**

#### **Recommendation:**

- (a) Adoption by the City Council of appropriation ordinance amendments in the General Fund to:
  - (1) Establish a transfer to the Redevelopment Agency in the amount of \$280,000 for the construction of community neighborhood centers at Edenvale Elementary School and Stipoe Elementary School;
  - (2) Reduce the appropriation to the Neighborhood Revitalization Strategy program in the amount of \$280,000.

**Ordinance No. 27133 adopted.**

- (b) Adoption of a resolution by the Agency Board approving adjustments to the FY 2003-2004 Adopted Capital Budget:
  - (1) Add \$280,000 to Other/Miscellaneous Revenue transferred from the City's PRNS NRS fund.
  - (2) Reallocating \$45,000 from ADA Curb Ramps to the ERCA Neighborhood Center project in the Edenvale/Great Oaks project line appropriation.
  - (3) Adding \$58,000 from the SNI Reserve to the ERCA Neighborhood Center Project
  - (4) Adding \$80,000 to the ERCA Neighborhood Center Project appropriation in the Edenvale/Great Oaks project line.
  - (5) Adding \$200,000 to the GONA Neighborhood Center Project in the Edenvale/Great Oaks project line appropriation.
- (c) Amendments by the Agency Board of the FY 2003-2004 Agency appropriations resolution.

**Redevelopment Agency Board Resolution Number adopted.**

*(Item continued on the next page)*

## **7 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **7.3 Award of a construction contract to the Edenvale Roundtable Association (ERCA) Neighborhood Center Project to the low bidder (Cont'd.)**

- (d) Adoption of a resolution by the Agency Board:
  - (1) Consenting to relieve the apparent low bidder, Bay Area Contractors Corporation, from its bid without forfeiture of bid security, on the grounds that bidder made an error in filling out the bid amount;
  - (2) Awarding a construction contract to Swenson & Associates, the lowest responsive bidder, in an amount of \$371,000 and establishing a construction contingency in the amount of \$37,100, for a total construction cost not to exceed \$408,100, for the ERCA Neighborhood Center Project.

**Redevelopment Agency Board Resolution Number adopted.**

- (e) Approval by the City Council and Agency Board of an Amended and Restated Cooperation Agreement that provides for the City's transfer of its share of the construction costs of the ERCA Neighborhood Center Project and the GONA Neighborhood Center Project to the Agency in a lump sum.

CEQA: Exempt, PP03-09-277 [EDENVALE] (Deferred 4/13/04, Item 5.2)

**Item 7.3 was renumbered from Item 5.1.**

**Approved.**

### **7.4 Approval of the second amendment to the DDA with BHV San José LLC, for redevelopment of the commercial properties located at the southeast corner of Story and King Roads.**

**Recommendations:** Adoption of resolutions:

- (a) By the City Council approving the sale of the project site located on the southeast corner of Story and King Roads to Story and King, LLC, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Story Road Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement as amended (DDA);

**Resolution No. 72085 adopted.**

*(Item continued on the next page)*

## **7 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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### **7.4 Approval of the second amendment to the DDA with BHV San José LLC, for redevelopment of the commercial properties located at the southeast corner of Story and King Roads (Cont'd.)**

- (b) By the Redevelopment Agency Board approving the second amendment to the Disposition and Development Agreement with BHV San José LLC, for the redevelopment of the commercial property at the southeast corner of Story and King Roads; and authorizing the Interim Executive Director to execute ancillary documents or to take those actions necessary to close escrow.

CEQA: Mitigated Negative Declaration [STORY ROAD]

**Item 7.4 was renumbered from 6.1.**

**Redevelopment Agency Board Resolution Number adopted.**

### **ADJOURNMENT**

**The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:32 p.m.**